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Public Service Commission of Wisconsin
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BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Allocation on the Commission's Own Motion Regarding Ratemaking Approaches that Promote Conservation & Efficiency Programs by Removing Disincentives That May Exist Under Current Ratemaking Policies

Docket No. 05-UI-114

INDUSTRIAL CUSTOMER GROUP'S (MIDWEST FOOD PROCESSORS ASSOCIATION, WISCONSIN INDUSTRIAL ENERGY GROUP, and WISCONSIN PAPER COUNCIL) COMMENTS ON STAFF'S BRIEFING MEMORANDUM

The Industrial Customer Group ("ICG") submits its Comments to the Public Service Commission of Wisconsin (the "Commission") Staff's September 2, 2008 Briefing Memorandum ("Briefing Memo") in the above-referenced docket. The ICG welcomes the opportunity to comment on the Briefing Memo. As the Commission has requested, the ICG uses this opportunity to "correct facts only" with respect to the Briefing Memo's characterization of ICG's positions on ratemaking approaches that promote conservation and efficiency programs generally, and issues 1-18 specifically. The ICG is not commenting on the Briefing Memo's characterization of the positions held by the others who are participating in this docket; its silence should not be understood by the Commission as the ICG's implicit agreement that the manner in which others' positions are stated is accurate. Next, the ICG addresses the options that Commission Staff has presented as alternatives. And, because the Briefing Memo includes new materials to which the ICG has not had the opportunity to respond, consistent with the Commission's offer, it comments on those additional questions here as well. Finally, the ICG recommends that before the Commission takes action in this docket, it either (1) ask stakeholders to comment on a revised Briefing Memo that expressly incorporates all parties' comments here, or (2) hold a technical conference to vet the parties' respective positions on these important issues.

A. General Comments

The ICG commends Commission Staff for its efforts in representing the disparate views of the many stakeholders participating in this docket. However, it appears to the ICG that the premise upon which its answers were made, and its overarching concern that there currently are not substantial "disincentives" to energy efficiency promotion, were not fully and correctly represented in the Briefing Memo. In its introductory comments to the Staff's initial survey, the ICG argued several important points that are not reflected in the Briefing Memo. It is important that the Commission recognize that the ICG's answers to the Survey are premised on the ICG's view that because of the success of current law, no "problem" needs to be solved with decoupling (or other incentive). For instance, utilities do not need an incentive to promote energy efficiency because they already have energy efficiency obligations created by statute and regulation. And, because utilities seek adjustments to their rates so frequently, they do not face significant risk of reduced revenues as a consequence of successful energy efficiency programs. The complete discussion of the ICG's overarching concerns about this docket can be found at pages 3 through 12. Significantly, both Northern States Power Company ("NSPW") and Madison Gas & Electric Company ("MGE") shared the ICG's view that "most of the disincentives are eliminated by the regulatory model in Wisconsin." *See* Briefing Memo, at 8.

Unfortunately, the Briefing Memo relegates the most significant answers provided by ICG—its discussion as to why incentives, beyond what currently is found in statute and regulation, are unnecessary—to two sentences. *Id.* As the Commission should recognize, the ICG's answers were neither so blunt as suggested by the Briefing Memo, nor so far afield from at least two investor-owned utilities that offered, in part, similar comments. *See* Briefing Memo, at 8 ("NSPW and MGE both maintain that most of the disincentives are eliminated by the regulatory model in Wisconsin . . .").

In short, ICG sought to demonstrate that effective options to encourage energy efficiency are already in place; the proposed new mechanisms are not optimal solutions; moreover, they also are potentially disruptive and higher cost solutions relative to building on Wisconsin's current regulatory framework.

Because many of the survey questions presumed that decoupling and performance incentives would be the mechanisms the Commission used to promote energy efficiency, it was no surprise that the Briefing Memo also assumed this view. However, ICG urges the Commission to closely evaluate whether it is necessary to offer any decoupling and performance incentives to the utilities. It also remains hopeful that the Commission will carefully consider the alternatives the ICG recommends in its Comments below. That recommendation begins with the observation that the Commission should build on the current regulatory framework. Before any new method is introduced, the Commission should be confident that the enhancement of current mechanisms will not work, and that any adopted new method will not raise costs for consumers without commensurate benefit.

B. SPECIFIC COMMENTS

Question 1: Do the current rate structures of the electric and gas utilities in Wisconsin contain a net lost revenue and profit that is significant enough to discourage these utilities from developing and spending additional money on energy efficiency programs?

The Briefing Memo should be corrected to note that the ICG's response to Survey Question 1 is found at pages 3-12 and 21-22 of its Survey Response (not pages 3-8 and 21-22).

And, although the Briefing Memo does not explain the detailed reasoning behind the ICG's position that no problem exists, it nonetheless recognizes most of the reasons underlying ICG's position, that the current regulatory system sufficiently promotes energy efficiency, at pages 6 and 7. In addition to the five points identified there, the ICG also explained that, because the utilities are primarily driven by signals from financial institutions, performance incentives will not work or will not be required. *See* Survey Response, at 12 (paragraph H)

Question 3: If disincentives are removed and the utility elects to spend higher than current amounts on energy efficiency, is it best for (a) the utility to develop and implement the programs; (b) should that be done by Focus on Energy; (c) should it be done through a combination of the utility and Focus on Energy; or (d) should it be done through some other entity?

Commission staff identified four Alternatives using the responses from stakeholders. ICG believes that the Briefing Memo should expressly reflect that, while the ICG support Focus on Energy (Alternative One) if disincentives are removed, it doubts that the removal of perceived "disincentives" will result in the utilities voluntarily spending higher than current amounts on energy efficiency.

Question 5: Should a decoupling mechanism consider only the effects of additional energy efficiency spending or should it also include the effects of other factors such as the economy and weather on actual vs. forecasted sales? If yes, please explain why.

Question 6. If you answered yes to Question #5, should it be necessary for a utility to propose additional energy efficiency spending before it could seek recovery of any lost revenues due to other factors?

Question 7. If a decoupling mechanism considers only the effects of additional energy efficiency spending, but due to weather, economic or other factors, the overall sales are equal to or greater than forecast, or if due to other factors the utility is either earning its authorized ROE or is within some range of its authorized return, should it still recover the lost revenues?

Question 8. Please provide what you believe to be the key components of a decoupling mechanism.

Aside from the following two exceptions, the Briefing Memo accurately represented ICG's positions on partial and full decoupling. The first correction to be made to the Briefing Memo is its citation to the pages of ICG's Survey Response that addresses these questions. That reference should be to the pages identified, <u>and</u> pages 12-21. It is on pages 12-21 that ICG discusses the several reasons why it opposes revenue decoupling and performance incentives. Those positions are not appropriately represented in the Briefing Memo, but should be included because they pointedly question the validity of the very presumptions upon which this docket is based. Moreover, the ICG also offered an alternative mechanism to decoupling that can (a) remove disincentives, and (b) promote energy efficiency while maintaining Wisconsin's current regiment of sound regulatory practices that are in the public interest:

a. Utility obligation to perform: Continue to mandate energy efficiency promotion *(see* ICG Survey Response, Section III-A).

b. Leverage the core competencies of Focus on Energy or other third-party, non-utility providers that have a mission to concentrate exclusively on the promotion and capture of energy efficiency. Use the existing foundation of an independently run Focus on Energy or similar program to decouple product sales from the promotion of conservation *(see* ICG Survey Response, Section III-B response to Question #3).

c. Limit distortions and utility risk through biennial rate cases with a reopener and fuel case options *(see* ICG Survey Response, Section III–C).

d. Utilize the Straight Fixed Variable method to appropriately align fixed costs with demand and customer charges—and variable costs with energy charges—eliminating the consumption risk (see ICG Survey Response, Section III –D)

e. Sell "saved" MWhs in the MISO market to further eliminate risk due to lower retail consumption *(see* ICG Survey Response, Section III–F above).

(see pages 27-28 of ICG Survey Response)

These responses should be included in the Briefing Memo because they clarify ICG's position and identify effective alternatives to decoupling. It is not clear, but should be, that the

ICG believes that (a) perceived problems do not exist because of current practices, and (b) some components of the existing framework should be modified, but do not require the addition of a new layer of complexity and the potential triggering of detrimental, unintended consequences as is often the case when new mechanisms are introduced.

Question 9: Please provide examples of ratemaking mechanisms other than decoupling that could incent utilities to pursue additional energy efficiency spending at a reasonable cost to ratepayers.

In discussing the current rate process and Wisconsin Statutes, the Briefing Memo states that continuing to rely on the process and statutes may be a reasonable alternative if the Commission is concerned only with the effects of additional energy efficiency spending. *See* Briefing Memo, at 26. The Briefing Memo suggests further that such an approach would not alleviate the "throughput issue and the associated impacts on the utility's revenue." *Id.*

The ICG believes that this statement should not be read as "fact" without additional analysis. For instance, is there any analysis that demonstrates that a portion of a utility's load growth is attributable to the "throughput incentive" in contrast to natural load growth arising from increased population or use of newer energy-intensive technologies? As for the associated impacts on the utility's revenue, the Briefing Memo should also clarify that the higher returns than industry average that Wisconsin's public utilities are authorized to earn work to compensate those utilities for consumption risk, in addition to other factors highlighting ICG's position on page 26 of the Briefing Memo.

Question 18. Are there important differences between gas and electric utilities to be considered when designing an incentive mechanism?

In response to this question, the ICG commented that using the SFV approach and existing regulatory mechanisms and statutory requirements should apply to both natural gas and electric utilities. Consequently, the ICG recommends that the following additional Alternative be added to the choices offered in the Briefing Memo:

Alternative Five: Existing mechanisms and the SFV approach are appropriate for a utility's electric and natural gas operations.

C. New Questions

Question 19: Depending on what type of mechanism is proposed by a utility, what type of information should be filed to support the proposed mechanism?

The Briefing Memo lists several elements that were developed by the MPUC as documentation and justification for a proposed decoupling plan (Appendix C). The ICG believes that the utility should provide an objective analysis that identifies costs, benefits and risks for a range of alternatives to justify why a certain mechanism is chosen. The elements provided in Appendix C can be made conducive to proposing other mechanisms as well. Alternatively, these elements could also reinforce that the existing mechanisms are the best options. There is no rationale to pre-suppose that decoupling is the best alternative. Therefore, the ICG recommends the following:

a. Develop a document similar to that provided in Appendix C that can be tailored to provide information on any type of mechanism.

b. Revise the Alternatives to encompass options other than decoupling such as:

   Alternative One: A utility should file the information shown in Appendix C (to be revised as recommend in (a) above) in support of a plan.

   Alternative Two: A utility should file the information shown in Appendix C (to be revised as recommend in (a) above) in support of a plan, as amended.

Alternative Three: It is not necessary for the Commission to specify what information a utility should file in support of a plan.

Question 20. What criteria should the Commission consider in evaluating any decoupling proposal?

The Briefing Memo provides a list of criteria developed by the MPUC to evaluate decoupling proposals. The ICG has the following recommendations:

a. Similar to the comments regarding question 19, the criteria to evaluate a proposal should structured depending on the mechanism proposed, which may or may not be decoupling.

b. The weighting of each criterion should be identified.

c. For each criterion, it is necessary that some specificity as to the type of quantitative analysis required. For example, how will the utility demonstrate if the proposed plan will result in a lower long-run average cost of service compared to various alternatives?

d. It should be clarified that the criteria of evaluating just and reasonable rates be conducted by comparison with other alternative rates.

Question 21. Are hearings required every time bills go up to recover lost sales?

ICG believes that should the Commission authorize decoupling, it must hold hearings on the recovery of lost sales, as required by law. ICG currently believes that to the extent that the Commission allows utilities to recover lost sales, it should do so only through the utilities rate cases (in either or both of the two-year biennial rate plans presented by the utilities).

Question 22. How frequently should decoupling adjustments be made?

ICG believes that the decoupling adjustment should be made on no greater than an annual basis. As noted in its response to Question 21, the utility is required to prove up those lost sales as part of its base rate cases.

Question 23. At least in the beginning, should an initial decoupling program be done as a pilot program? For what time period?

As emphasized throughout its responses, ICG opposes decoupling. So while it does not believe that decoupling should be adopted, should the Commission disagree, it should initially authorize decoupling as a pilot program and with a customer class that generally is supportive of it, and for no more than 2 years. It would be prudent to include a term with an off ramp provision so that if the results are significantly different than expected, the program can be terminated as expeditiously as possible.

D. Survey Summary Table – ICG Comments

In response to question 3, add "instead of decoupling revenue from sales, it would be more effective to decouple product sales form the promotion of conservation"

In response to question 5, revise as follows: "The ICG strongly opposes revenue decoupling. Simple decoupling methods (in Commission staff's terms known as full decoupling) provide compensation for lost margin for factors unrelated to energy efficiency and this would be unjust and unreasonable. Complex methods of decoupling (in Commission staff's terms known as partial decoupling) that isolate the effects of energy efficiency create "black box" methodologies resulting in questionable accuracy, high administrative burdens and unmanageable programs. Either way, such mechanisms produce unreasonable and sub optimal results for customers."

In response to question 18, add "the ICG believes that there are no material differences to be considered between natural gas and electric utilities and that implementing energy efficiency programs through a third party such as Focus on Energy and utilizing the Straight Fixed Variable method are mechanisms that can be successfully applied to both natural gas and electric utilities and eliminate the problems that are attempting to be addressed by decoupling mechanisms."

In the Introductory Comments Section, add the following:

- Focus on Energy, an independently run program, is the most appropriate foundation for promoting energy efficiency in the state. And rather than decoupling a utility's revenue from its sales, the Commission should use the existing foundation for energy efficiency to decouple product sales from the promotion of conservation.
- Since utilities submit rate applications on a regular basis and also obtain approvals for higher than industry average rates of return, there is limited risk and no distortions that might results if there were long lags between rate cases.
- By aligning fixed costs with demand/customer charges and variable costs with energy charges, utilities can eliminate the risk of reduced sales and send more appropriate, effective pricing signals to customers.
- To the extent that utilities experience lower sales in their retail base, they have the opportunity to sell the "saved" Megawatt Hours into the MISO Market.
- Revenue Decoupling and Performance Incentive mechanisms add complexity and offer little certainty that they actually compensate utilities for energy efficiency.
- Since decoupling results in a revenue guarantee for utilities and essentially departs from cost of service ratemaking, it is harmful to customers and the environment.

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